HIGH COURT OF UTTARANCHAL AT NANITAL

Writ Petition No. 603 of 2005 (SS)

Ashok Negi s/o Suwarn Singh Negi
Retired Sub Post Master r/o Satyeshwar
Mohalla Suman chaowk, Purani Tehri
Tehri Garhwal ..... Petitioner.

Versus

1. Union of India
2. The Chiefr Post Master General, Uttaranchal Chief, Dehradun
3. Superintendent of Post Offices, Tehri
4. Circle Relaxation Committee through its Chairman, Dehradun .....Respondents.

Dated:-27.2.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Manoj Tiwari learned counsel for the petitioner and Standing Counsel for the respondents.

By the present writ petition, the petitioner has prayed for the issue of a writ of certiorari quashing the decision taken by the respondents in the meeting of Circle Relaxation Committee held on 24.6.2004.

Briefly state the petitioner's father Sri Swarn Singh Negi was a regular employee serving in Postal Department on the post of Sub- Post Master. He retired from service on medical ground. The petitioner has submitted that in the postal Department, dependants of an employee who retires on medical ground are entitled for compassionate appointment. The petitioner's father was assured by the competent authority that one of his sons will be given appointment in the department on compassionate ground after his retirement on

medical ground. In view of the policy and also the assurance given to the petitioner's father, he submitted an application seeking appointment on 18.3.1997.

The petitioner has submitted that he is eligible for the appointment under the relevant rules. However the respondents failed to take any suitable action in favour of the petitioner and the Circle Relaxation Committee rejected his claim. Thereafter petitioner submitted a representation on 26.2.1998 to the Chief Post Master General U.P. The petitioner's father also sent a representation dated 22.7.1998 to the Post Master General, Dehradun asked the respondent no. 3 to submit a detail report regarding the financial condition, liabilities, income for unirrigated agricultural etc. On 2.12.1998 the respondent no. 3 submitted his report stating therein that the family of the petitioner has been suffering in acute financial crises. After investigating the matter the Chief Post Master General vide his letter dated 6.7.2000 sought the consent of the petitioner for appointment in any other department of the Central Government as that time there was no vacancy of the Postal Assistant. The petitioner sent his consent vide letter dated 18.7.2000 but the respondents have not given appointment to the petitioner.

Earlier the petitioner filed a writ petition before this Court being writ petition No. 54(SS) of 2003 for grant of appointment to him on compassionate ground as his father had to retire from service due to disablement of eyes. The writ petition was allowed vide order dated 2.4.2004 and it was held that compassionate appointment under relevant memorandum may be extended to the son of a government servant retired on medical grounds under rule 38 of Central Civil Service (Pension) Rules,

1972. The order rejecting the representation of the petitioner was quashed and respondents were directed to consider the matter afresh in view of the observations made in the body of judgment. The respondents held a meeting of Circle Relaxation Committee on 24.6.2004 and denied to give employment to the petitioner on compassionate ground.

The learned counsel for the petitioner vehemently argued that alleged Relaxation Committee cannot sit over the order of the High Court as an appellate authority. Instead of complying the order of the High Court passed in Writ Petition No. 54 (SS) of 2003, they formed their different opinion contradicting the findings of the High Court. After the order passed by this Court there was no alternative choice for the respondents but to find out a suitable post in the Department according to the qualification of the petitioner and to appoint him.

Counter affidavit has been filed by the respondents and denied that there was any review of judicial order as alleged by the petitioner. The case of the petitioner was reconsidered after taking into account all relevant points and on the basis of fresh information/synopsis received to consider the case.

From the perusal of the documents submitted by the petitioner it is evident that the respondents after making enquiry and considering the case the petitioner were of the view that a case of compassionate appointment is made out in favour of the petitioner. The Chief Post Master General vide his letter dated 6.7.2000 sought consent of the petitioner for his appointment in any Department of Central Government on compassionate ground as at that time according to him there was no post vacant. Thus once the respondents have come to the conclusion that the family of the petitioner was suffering

financial crisis and it was a case of compassionate appointment then there was no reason for the respondents to divert from their earlier decision and to make further enquiry regarding the financial condition of the family of the petitioner after passing order by the Court. The respondents cannot be permitted to sit over the decision of the Court and evaluate and scrutinize the judgment as of an appellate court.

In view of above, a writ of certiorari is issued quashing the order dated 24.6.2004 and the respondents are directed to pass appropriate order of appointment on a suitable post in favour of the petitioner within one month after the receipt of certified copy of this order.

Accordingly, the writ petition is allowed. No order as to costs

Rajesh Tandon J.

Dated:- 27.2.2006

*Dhyani